

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

Plaintiff,

**v.**

**CRIMINAL NO. 3:09-CR-91  
(Judge Bailey)**

**JACKIE ROBINSON,**

Defendant.

**AMENDED ORDER GRANTING DEFENDANT'S MOTION TO REDUCE SENTENCE**

Currently pending before this Court is Defendant Jackie Robinson's Motion to Reduce Supervised Release Sentence [Doc. 68], which was filed October 17, 2012. This Court previously granted the defendant's Motion to Reduce Sentence and to Waive Resentencing Hearing [Doc. 64], which was filed on October 15, 2012. In that motion, defendant Robinson respectfully requested a reduction from his previously imposed mandatory minimum sentence of 60 months. Based on *Dorsey v. United States*, 567 U.S. \_\_\_\_ (2012), this Court found the mandatory minimum sentence no longer applies to this defendant. Accordingly, this Court applied the advisory guideline range in imposing its sentence.

Defendant Robinson entered a plea of guilty to Count 2 of the Indictment (distribution of cocaine base). On the 25th day of January, 2011, after reviewing the Presentence Investigation Report, this Court found a base level offense of 22, minus two (2) levels for acceptance of responsibility, and minus one (1) additional level based on the Government's motion, resulting in a total offense level of 19. With a criminal history category III, the

guidelines would have provided a range of 37-46 months incarceration. The drug weight for Count 2, to which defendant Robinson pled, was 10.6 grams of cocaine base. Prior to the recent June 21, 2012, Supreme Court of the United States' **Dorsey** decision, 567 U.S. \_\_\_\_ (2012), the 5-year statutory mandatory minimum was triggered by a conviction for possessing with intent to distribute five (5) or more grams of cocaine base. Accordingly, this Court sentenced defendant Robinson to the 5-year mandatory minimum.

The **Dorsey** opinion has changed the rules. In light of **Dorsey**, a defendant like Robinson who committed the relevant crime prior to August 3, 2010, but was sentenced after August 3, 2010, is not subjected to the harsher mandatory minimum which the Fair Sentencing Act aimed to reduce. Under the Fair Sentencing Act, the 5-year mandatory minimum is now triggered by a conviction for possessing with intent to distribute 28 or more grams of cocaine base.

Defendant Robinson' motion is well taken. The crime for which he was sentenced took place on or about September 15, 2008, and he was sentenced to the 5-year mandatory minimum on January 25, 2011. Defendant Robinson therefore represents the quintessential defendant whose disparity the Supreme Court sought to redress.

As stated above, with a criminal history category III, the guidelines provided a range of 37-46 months incarceration. Accordingly, now that this Court is no longer bound by the 5-year mandatory minimum, this Court reduced the defendant's sentence to thirty-seven (37) months. In granting the reduction, this Court specifically noted that all other provisions of the original sentence shall remain in effect. The defendant's instant motion [Doc. 68] requests that this Court reduce the four (4) year period of supervised release to two (2)

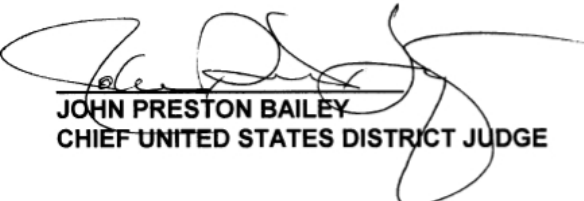
years. This Court notes the Government does not object to a reduction to three (3) years.

The previous term of supervised release was calculated based upon a guideline range of 2 to 5 years, with a statutory minimum of 4 years. The revised calculation provides a guideline range of 1 to 3 years, with a statutory minimum of 3 years. Pursuant to the United States Sentencing Commission Guidelines Manual, § 5D1.2(c), "[t]he term of supervised release imposed shall be not less than any statutorily required term of supervised release." Accordingly, Defendant Jackie Robinson' Motion to Reduce Supervised Release Sentence **[Doc. 68]** is **GRANTED** to the extent that it will impose the statutory minimum of three (3) years supervised release. An Amended Judgment and Commitment Order reflecting the above will follow.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to the United States Probation Office.

**DATED:** October 17, 2012.



JOHN PRESTON BAILEY  
CHIEF UNITED STATES DISTRICT JUDGE